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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
1011 MICHAEL L. BUESGENS,  
12 Plaintiff,No. C-08-5710 MMC  
(Appeal No. 09-15131)

13 v.

**ORDER DENYING PLAINTIFF'S MOTION  
TO FILE APPEAL IN FORMA PAUPERIS**14 BEVERLY HART, et al.,  
15 Defendants  
16 \_\_\_\_\_/

17 On December 22, 2008, plaintiff filed the instant complaint and an application to  
18 proceed in forma pauperis. On December 30, 2008, the Court denied plaintiff's application  
19 to proceed in forma pauperis, and, on January 2, 2009, plaintiff paid the filing fee. On  
20 January 16, 2009, plaintiff filed a notice of appeal from the Court's December 30, 2008  
21 order. Now before the Court is plaintiff's "Motion to File Appeal In Forma Pauperis," filed  
22 January 22, 2009.

23 A party who seeks to proceed in forma pauperis on appeal must, inter alia, file an  
24 affidavit in which he "states the issues that the party intends to present on appeal." See  
25 Fed. R. App. Proc. 24(a)(1)(C). Here, plaintiff has submitted an affidavit in which he  
26 describes the issues he intends to present on appeal, in full, as follows: "Denial of informa  
27 [sic] pauperis and appointment of counsel in civil Number 3:08CV05710-MMC U.S. District  
28 Court for the Northern District of California, San Francisco Division." Such conclusory

1 assertion does not identify any issue plaintiff intends to raise on appeal.<sup>1</sup>

2 In an unverified attachment to the instant motion, plaintiff states, in a possible  
3 attempt to identify an issue to be raised on appeal, that his "monthly expenses for medical  
4 care, legal costs, and living costs exceed his only source of income, disability retirement  
5 \$1,393.00 per month." Plaintiff failed, however, to make any such assertion in the  
6 application to proceed in forma pauperis filed December 22, 2008.<sup>2</sup> Consequently,  
7 because such contention was not made in this Court, plaintiff cannot contend on appeal  
8 that the Court erred by failing to address it.

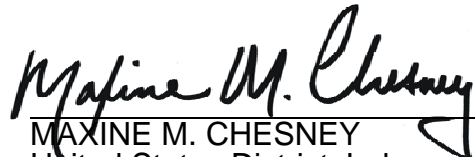
9 Accordingly, because plaintiff has failed to identify any issue he can raise on appeal,  
10 the application to proceed in forma pauperis on appeal is hereby DENIED.

11 Plaintiff is hereby informed he may file a motion to proceed in forma pauperis in the  
12 Ninth Circuit Court of Appeals. See Fed. R. App. Proc. 24(a)(5).

13 The Clerk of the Court is directed to send a copy of this order to the Ninth Circuit  
14 Court of Appeals.

15 **IT IS SO ORDERED.**

16  
17 Dated: January 27, 2009

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19 MAXINE M. CHESNEY  
20 United States District Judge  
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25 <sup>1</sup>Moreover, the Court has not denied any motion for appointment of counsel.

26 <sup>2</sup>In the application denied by this Court, plaintiff stated his monthly income was  
27 \$1393, his monthly expenses were \$1275, he had \$14,000 in a retirement account, and he  
28 had \$3000 cash in the bank. Plaintiff also stated he had debts in the total amount of  
\$55,000, but did not indicate he was making, or was required to make, any monthly  
payments on said debts. Plaintiff further stated that he sought herein to raise claims he  
had previously raised in a state court in Texas.